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EXAMINER

TRAN, NGHI V

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/905,151

Applicant(s)

BORDER ET AL.

Examiner

Nghi V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12-13 recite the limitation "the management agent" (emphasis added) in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1- are rejected under 35 U.S.C. 102(e) as being anticipated by Winckles et al., U.S. Patent No. 6,829,221 (hereinafter Winckles).

5. With respect to claims 1, 7, and 20, Winckles teaches a method for monitoring a communication system [see abstract], the method comprising:

- receiving information relating to configuration parameters for configuring a platform within the communication system to provide performance enhancing

functions relating to performance of the communication system, the configuration parameters being specified in a profile of the platform configured to support the performance enhancing functions [col.6, ln.18 - col.8, ln.33 and fig.1];

- selectively modifying the profile in response to the received information [col.3, ln.65 - col.4, ln.64]; and
- forwarding the modified profile to the platform [col.7, ln.36 - col.8, ln.29 i.e. BGP update].

6. With respect to claims 3, 9, and 22, Winckles further teaches the communication system is partitioned into a plurality of network management domains to control access network management information [fig.1].

7. With respect to claims 4, 10, and 23, Winckles further teaches maintaining a default profile for the platform [col.1, ln.35 - col.2, ln.60].

8. With respect to claims 5, 11, and 24, Winckles further teaches the profile in the receiving step includes at least one of a Transmission Control Protocol (TCP) spoofing parameter that includes a field to indicate whether a TCP connection supported by the platform is to be spoofed, a backbone protocol parameter that includes a field to identify a backbone connection supporting the performance enhancing functions, a prioritization parameter that includes a field for specifying prioritized access to the backbone

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connection, or a path selection parameter that includes a field for specifying a rule for routing packets over paths within the communication system [fig.4 and col.6, Ins.44-66 and col.4, Ins.11-22].

9. With respect to claims 6, 12-13, and 25, Winckles further teaches selectively storing the information at least within the platform [21 i.e. control centre] and within a database that is separate from the platform [col.6, Ins.18-59].

10. Claims 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Danielson et al., U.S. Patent Number 6,473,795 (hereinafter Danielson).

11. With respect to claim 14, Danielson teaches a network apparatus for monitoring a communication system that includes a platform configured to perform a plurality of performance enhancing functions, the apparatus comprising:

- means for receiving information relating to configuration parameters as specified in a profile of the platform [column 6, lines 50-67 and figures 3-4];
- means for selectively modifying the profile in response to the received information [column 7, lines 20-40, column 16, lines 35-52, and figure 4]; and
- means for forwarding the modified profile to the platform [column 6, lines 19-32 and figures 3-4].

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12. With respect to claim 15, Danielson further teaches the modified profile is forwarded as a single file [column 8, lines 23-34].

13. With respect to claim 16, Danielson further teaches the communication system is partitioned into a plurality of network management domains to control access network management information [figure 1, column 1, lines 45-66, and lines 20-52].

14. With respect to claim 17, Danielson further teaches maintaining a default profile for the platform [column 9, lines 10-28].

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 2, 8, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winckles as applied to claims 1, 7, and 20 above, and further in view of D'Souza, U.S. Patent No. 6,173,324.

17. With respect to claims 2, 8, 15, and 21, Winckles is silent on the modified profile is forwarded as a single file.

In a method for monitoring a communication system, D'Souza discloses the modified profile is forwarded as a single file [figs.1-5].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Winckles in view of D'Souza by forwarding the modified profile as a single file because this feature detects and isolates defects that may impact customer connectivity [D'Souza, col.3, Ins.10-49]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify Winckles in view of D'Souza in order to exchange route information [D'Souza, col.3, Ins.50-67].

18. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Danielson as applied to claim 14 above, and further in view of Feltcher et al., U.S. Patent Number 6,058,243 (hereinafter Flectcher).

19. With respect to claim 18, Danielson fails to teach the profile in the receiving step includes at least one of a TCP spoofing kernel parameter, a backbone protocol kernel parameter, a prioritization kernel parameter, and a path selection parameter.

However, Feltcher discloses a network's alert including at least one of a TCP spoofing, a backbone protocol, a prioritization or a path selection parameter (column 4, lines 11-65 and figures 1-3).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Danielson in view of Feltcher by specifying more

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detail of the profile in the receiving step. The motivation for doing so would have been obvious because the monitoring and reporting of data traffic statistics in LAN or WAN reduce the network bandwidth, optimize the network path, track network volume and increase the network performance with minimum cost [column 4, lines 34-64].

20. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Danielson as applied to claims 1-4, 7-10, 14-17, and 20-23 above, and further in view of Touboul, U.S. Patent Number 6,658,465.

21. With respect to claim 19, Danielson fails to teach the method further comprising: selectively storing the information at least within the platform and within a database that is separate from the platform.

However, Touboul discloses event log database storing within the platform [item 44 of figure 4] and message log database storing separate from the platform [item 45 of figure 4].

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Danielson in view of Touboul by storing information within the platform or separate from the platform. The motivation for doing so would have been obvious because the database enables developers or administrators easily to create, modify, or delete records [column 14, lines 4-13].

### ***Response to Arguments***



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22. Applicant's arguments with respect to claims 1-13 and 20-25 have been considered but are moot in view of the new ground(s) of rejection.

23. Applicant's arguments filed December 28, 2004 have been fully considered but they are not persuasive because of the following reasons: Danielson teaches a network apparatus for monitoring a communication system that includes a platform configured to perform a plurality of performance enhancing functions, the apparatus comprising: means for receiving information relating to configuration parameters as specified in a profile of the platform [column 6, lines 50-67 and figures 3-4]; means for selectively modifying the profile in response to the received information [column 7, lines 20-40, column 16, lines 35-52, and figure 4]; and means for forwarding the modified profile to the platform [column 6, lines 19-32 and figures 3-4].

### ***Conclusion***

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**ZARNI MAUNG**

**SUPERVISORY PATENT EXAMINER**

Nghi V Tran  
Patent Examiner  
Art Unit 2151

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